



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,425	06/01/2006	Susumu Yamaguchi	4600-0117PUS1	6373
2292 7590 04/08/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER PADEN, CAROLYN A				
ART UNIT 1781		PAPER NUMBER		
NOTIFICATION DATE 04/08/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/563,425

Applicant(s)

YAMAGUCHI ET AL.

Examiner

Carolyn A. Paden

Art Unit

1781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/22C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 1-29-10

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 5-14 are rejected under 35 U.S.C. 102(b) as being anticipated by van Dorp (3,686,003) for reasons of record.

Van Dorp discloses flavoring foods with the decomposition product of arachidonic acid (column 2, line 17). The decomposition is said to be formed by oxidation, hydrolysis or thermal decomposition (abstract). The flavor formed is described as a savoury flavor (column 1, line 32), which examiner considers to be a body taste improving flavor. The final flavoring ingredient is an aliphatic aldehyde having from 11-17 carbon atoms and 2-4 double bonds (abstract). Trideca-2,4,7-trienal is cited as one of the products (column 1, line 43). Linolenic acid is cited as a precursor for the flavoring agent in example 12. The decomposition product of arachidonic acid is added to chicken noodle soup based, which examiner considers to be consommé and also to be a water extract (column 5, lines 54-60).

Arachidonic acid and linolenic acid are considered to be the n-6 unsaturated fatty acids (see applicants' specification at page 5, paragraph 2 for identification of n-6 unsaturated fatty acids).

Applicant argues that van Dorp is not related to improving the body taste of foods. Van Dorp teaches improving the savory taste of foods, which examiner regards as improving the body taste of foods. Applicant defines taste as rich or thick taste and examiner understands this to be a savory taste. In any case van Dorp teaches improving the flavor of foods by the used of the compound of the claims. This is what applicant shows in his examples at page 12, for example, where the taste is described in one column as "goodness of taste". Applicant argues that van Dorp uses his product in a food with a lot of fat in it. Example 20 is chicken noodle soup with 0.4% fat, which examiner does not consider to be a food with lot of fat.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Dorp (3,686,003).

Van Dorp discloses flavoring foods with the decomposition product of arachidonic acid (column 2, line 17). The final flavoring ingredient is an aliphatic aldehyde having from 11-17 carbon atoms and 2-4 double bonds (abstract). Trideca-2,4,7-trienal is cited as one of the products (column 1, line 43). Linolenic acid is cited as a precursor for the flavoring agent in example 12. The claims appear to differ from van Dorp in the recitation of the amount of flavoring used in the food (see column 3, lines 22-35). It would have been obvious to one of ordinary skill in the art to include enough of the precursor arachidonic acid in a food composition in order to provide an appropriate amount of flavoring agent to food. Guidance as to the amount of arachidonic acid is provided in example 8, where more than 1% arachidonic acid is used to create flavoring for chicken soup.

Applicant argues that van Dorp uses his product in a food with a lot of fat in it. Example 20 is chicken noodle soup with 0.4% fat, which examiner does not consider to be food with lot of fat.

Claims 1-4, 6, 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Simmons (EP0463660).

Simmons discloses preparing flavoring mixtures from mixtures of fatty acids in water. In example 1, palm oil with linolenic acid is shaken in the presence of air at 85C for 8 hours. The results are shown on page 5. Linolenic acid is taken to be the n-6 fatty acid in this case (see applicants' specification at page 5, 2nd paragraph). The aldehydes formed have the desired carbon number and degree of unsaturation of the claims. The flavors produced are used in making soup with 10% fat, as shown in example 17.

Applicant argues that Simmons is for use with foods that contain a lot of fat. Examiner does not regard 10% fat in the soup of example 17 to be a lot of fat.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached by dialing 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Carolyn Paden/

Primary Examiner 1781